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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,844	09/23/2003	Thomas K. Hong	67 TH-10-US	1400

7590 12/29/2004

THOMAS K. HONG  
1666 QUEEN STREET EAST, UNIT 18  
TORONTO, ON M4L 1G3  
CANADA

EXAMINER
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SOOHOO, TONY GLEN

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/667,844	HONG, THOMAS K.	
	Examiner	Art Unit	
	Tony G. Soohoo	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Claim interpretation**

With regards to the claim language of a stirring member, and stirring plate, the terms "stirring" as a modifier to member and plate is deemed as directed to the intended use of the member and does not structurally distinguish it from any member or plate which may be manipulated to perform the same duty of operation of stirring. In the application of the prior art below, some references provide a plate members with holes which may be used to "mash", such a structure, it is deemed, would also satisfy a "stirring member" or "stirring plate" thereby fully satisfying the claimed structural limitations of a "member" or furthermore, a "plate". It is noted that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 9-12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by *Bowe* 435962.

The *Bowe* reference discloses an elongate handle d with hanging feature C, a circular plate member b attached at the center of the plate at F, H by using bifurcated legs a,a of the handle D, and having material passing circular apertures e, e. With regards to the term "stirring" as a modifier to member and plate. The term is deemed as a functional descriptive modifier to the claimed structure of a "member" and "plate" and does not structurally distinguish the

claimed member of a circular plate with plural circular apertures, as defined in the claim(s).

3. Claims 1-3, 9-10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Des 203858 to Hvale.

The Design patent to Hvale discloses an elongate handle with hanging feature (see opening in the handle in figure 1 and 5), rectangular-like plate member having material passing apertures, figures 3 and 4, and a handle cross section of an I-beam shape as seen in figure 5. With regards to the term "stirring" as a modifier to member and plate. The term is deemed as a functional descriptive modifier to the claimed structure of a "member" and "plate" and does not structurally distinguish the claimed member of a plate with apertures, as defined in the claim(s).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowe 435962 in view of Defenbaugh 1353520.

The Bowe reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the handling being mounted in a pivotal movement by using a 1<sup>st</sup> connector and 2<sup>nd</sup> connector to engage the foot of the legs a,a (of Bowe) so that one may pivot the plate upon the handle.

The Defenbaugh reference disclose that a handle 10 having legs 13, 13 and foot 12 may have a connecting member for each leg/foot (or fingers as named by Defenbaugh) whereby grooves 7,9 and holes 8 are positioned on a plate 1 with apertures 2 such that one may pivot the handle from a perpendicular (figure 1) to a parallel relationship (figure 2) to the plate if so desired.

In view of the teaching of Defenbaugh that one may use a groove and hole assembly so that the bifurcated leg/foot ( or fingers) members may provide a repositioning of the handle, it is deemed that it would have been obvious to one of ordinary skill in the art to substitute for the attachment hub H, F of the Bowe reference with a groove and hole arrangement, as taught by Defenbaugh, so that one may reposition the handle by pivoting the handle so that the plate may be repositioned for additional uses.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bowe 435962 in view of Hvale Des.203858.

The Bowe reference discloses all of the recited subject matter as defined within the scope of the claims with the exception of the handle being made of a I beam cross section.

The Design patent to Hvale discloses an elongate handle with hanging feature (see opening in the handle in figure 1 and 5), rectangular-like plate member having material passing apertures, figures 3 and 4, and a handle cross section of an I-beam shape as seen in figure 5. It is common knowledge that an I-beam cross section has a greater modulus which resists bending forces.

In view of the teaching by the Hvale reference that one may make a handle with a holder in a single construction of an I-beam cross section, and absent any unexpected results, it is deemed that it would have been obvious to one of ordinary skill in the art to substitute for the handle D, C, with a functional equivalent of a handle of the type of the Hvale reference whereby the handle may have an I-beam construction so that the handle is more stronger to bending.

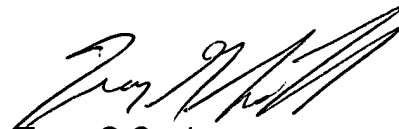
### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bright et al 167493, Graham 1098622, Latham Des.205538, Hulterstrum 3352340, Lottick 4441640, Moos 2785718, Lillelund et al Des. 399103, Hetherington 1766171, Caughlin 1115287, Lorton 33654, Anderson et al 108083, Stockfelth et al 1510564.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo  
Primary Examiner  
Art Unit 1723

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